

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 03-cv-12592

Gaetano P. Deluca

v.

The Town of Hingham, et al

CLERK'S CERTIFICATE

I, Tony Anastas, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 2/7/05.

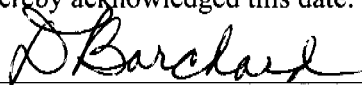
In testimony whereof, I hereunto set my hand and affix the seal of this Court on February 10, 2005.

Tony Anastas, Clerk of Court

By: 

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 2/10/05.


Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:03-cv-12592-REK**

DeLuca v. The Town of Hingham et al
Assigned to: Judge Robert E. Keeton
Cause: No cause code entered

Date Filed: 12/23/2003
Jury Demand: Plaintiff
Nature of Suit: 440 Civil
Rights: Other
Jurisdiction: Federal Question

Plaintiff**Gaetano P. DeLuca**

represented by **Gaetano P. DeLuca**
140 High Street
Hingham, MA 02043
PRO SE

V.

Defendant**The Town of Hingham**

represented by **Stacey G. Bloom**
Murphy, Hesse, Toomey &
Lehane, LLP
300 Crown Colony Drive
Suite 410
Quincy, MA 02169
617-479-5000
Fax: 617-479-6469
Email: sbloom@mhtl.com
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

William P Breen, Jr.
Murphy, Hesse, Toomey, and

Lehane LLP
300 Crown Colony Drive
Suite 410
Quincy, MA 02169
617-479-5000
Fax: 617-479-6469
Email: wbreen@mhtl.com
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Defendant

Hingham Board of Health represented by **Stacey G. Bloom**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

William P Breen, Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Defendant

Peter B. Bickford
Chairman represented by **Stacey G. Bloom**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

William P Breen, Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Defendant

Raymond E. Beale, Jr.

represented by **Stacey G. Bloom**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

William P Breen, Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Defendant

Ruth Anne Beck
Treasurer/Tax Collector

represented by **Stacey G. Bloom**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

William P Breen, Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Defendant

Bruce T. Capman
Executive Health Officer

represented by **Stacey G. Bloom**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

William P Breen, Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Defendant**First High Street Trust**represented by **Diane F. Hutchison**

First High Street Trust
29 Longmeadow Road
Hingham, MA 02043
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Date Filed	#	Docket Text
12/23/2003	<u>01</u>	COMPLAINT against Raymond E. Beale Jr., Ruth Anne Beck, Peter B. Bickford, Bruce T. Capman, First High Street Trust, Hingham Board of Health, The Town of Hingham Filing fee: \$ 150, receipt number 52676, filed by Gaetano P. DeLuca. (Attachments: # <u>1</u> Complaint Part 2# <u>2</u> Complaint Part 3)(Folan, Karen) (Entered: 12/30/2003)
12/23/2003	0	Summons Issued as to Raymond E. Beale Jr., Ruth Anne Beck, Peter B. Bickford, Bruce T. Capman, First High Street Trust, Hingham Board of Health, The Town of Hingham. (Folan, Karen) (Entered: 12/30/2003)
12/23/2003	0	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Collings. (Folan, Karen) (Entered: 12/30/2003)
12/29/2003	<u>09</u>	Corrected copy of page 42 of the complaint. (Folan, Karen) (Entered: 01/13/2004)
01/05/2004	<u>02</u>	SUMMONS Returned Executed First High Street Trust served on 12/23/2003, answer due 1/12/2004. (Folan, Karen) (Entered: 01/09/2004)
01/05/2004	<u>03</u>	SUMMONS Returned Executed Ruth Anne Beck

		served on 12/23/2003, answer due 1/12/2004. (Folan, Karen) (Entered: 01/09/2004)
01/05/2004	<u>04</u>	SUMMONS Returned Executed Raymond E. Beale Jr. served on 12/23/2003, answer due 1/12/2004. (Folan, Karen) (Entered: 01/09/2004)
01/05/2004	<u>05</u>	SUMMONS Returned Executed Bruce T. Capman served on 12/23/2003, answer due 1/12/2004. (Folan, Karen) (Entered: 01/09/2004)
01/05/2004	<u>06</u>	SUMMONS Returned Executed Peter B. Bickford served on 12/23/2003, answer due 1/12/2004. (Folan, Karen) (Entered: 01/09/2004)
01/06/2004	<u>07</u>	MOTION for Extension of Time to additional 30 days to respond to complaint by The Town of Hingham. (Folan, Karen) (Entered: 01/09/2004)
01/08/2004	<u>08</u>	MEMORANDUM in Opposition re <u>7</u> MOTION for Extension of Time to additional 30 days to respond to complaint filed by Gaetano P. DeLuca. (Folan, Karen) (Entered: 01/12/2004)
01/08/2004	<u>10</u>	ANSWER to Complaint by First High Street Trust. (Folan, Karen) (Entered: 01/13/2004)
01/12/2004	<u>0</u>	Judge Robert E. Keeton : Electronic ORDER entered granting <u>7</u> Motion for Extension of Time. Allowed and so Ordered, 30 day extension is granted. (Nicewicz, Craig) (Entered: 01/12/2004)
01/13/2004	<u>11</u>	Automatic disclosure statement in accordance with Federal Rule 26 and Local Rule 26.2 by Gaetano P. DeLuca.(Folan, Karen) (Entered: 01/15/2004)
01/13/2004	<u>12</u>	Request for notice of default. (Folan, Karen) (Entered: 01/15/2004)
01/13/2004	<u>13</u>	AFFIDAVIT of Gaetano P. DeLuca in Support re <u>12</u> Request for notice of default. (Folan, Karen) (Entered: 01/15/2004)

02/02/2004	<u>14</u>	NOTICE of Appearance by William P Breen Jr., Stacey G. Bloom on behalf of Raymond E. Beale Jr., Ruth Anne Beck, Peter B. Bickford, Bruce T. Capman, Hingham Board of Health, The Town of Hingham (Folan, Karen) (Entered: 02/09/2004)
02/02/2004	<u>15</u>	MOTION to Stay discovery by Raymond E. Beale Jr., Ruth Anne Beck, Peter B. Bickford, Bruce T. Capman, Hingham Board of Health, The Town of Hingham. (Folan, Karen) (Entered: 02/09/2004)
02/02/2004	<u>16</u>	MOTION for More Definite Statement by Raymond E. Beale Jr., Ruth Anne Beck, Peter B. Bickford, Bruce T. Capman, Hingham Board of Health, The Town of Hingham.(Folan, Karen) (Entered: 02/09/2004)
02/05/2004	<u>17</u>	Opposition re <u>16</u> MOTION for More Definite Statement filed by Gaetano P. DeLuca. (Folan, Karen) (Entered: 02/09/2004)
02/05/2004	<u>18</u>	Opposition re <u>15</u> MOTION to Stay filed by Gaetano P. DeLuca. (Folan, Karen) (Entered: 02/09/2004)
04/23/2004	<u>19</u>	Request for notice of default. (Folan, Karen) (Entered: 04/26/2004)
06/16/2004	<u>20</u>	NOTICE of Hearing: Case Management Conference set for 7/13/2004 02:00 PM in Courtroom 3 before Robert E. Keeton. (Nicewicz, Craig) (Entered: 06/16/2004)
07/08/2004	<u>21</u>	Judge Robert E. Keeton : MEMORANDUM AND ORDER entered granting <u>15</u> Motion to Stay, granting <u>16</u> Motion for More Definite Statement. "...The case management conference set for Tuesday, July 13, 2004 at 2:00 p.m. is cancelled. A scheduling conference under Local Rule 16.1 is scheduled for Wednesday, September 8, 2004 at 2:30 p.m." (Folan, Karen) (Entered: 07/08/2004)

07/12/2004	<u>22</u>	FIRST AMENDED COMPLAINT against Raymond E. Beale Jr., Ruth Anne Beck, Peter B. Bickford, Bruce T. Capman, First High Street Trust, Hingham Board of Health, The Town of Hingham , filed by Gaetano P. DeLuca. (Attachments: # <u>1</u> Part 2# <u>2</u> Part 3)(Folan, Karen) (Entered: 07/15/2004)
07/26/2004	<u>23</u>	MOTION to Dismiss by Raymond E. Beale Jr., Ruth Anne Beck, Peter B. Bickford, Bruce T. Capman, Hingham Board of Health, The Town of Hingham. (Folan, Karen) (Entered: 07/28/2004)
07/26/2004	<u>24</u>	MEMORANDUM in Support re <u>23</u> MOTION to Dismiss filed by Raymond E. Beale Jr., Ruth Anne Beck, Peter B. Bickford, Bruce T. Capman, Hingham Board of Health, The Town of Hingham. (Folan, Karen) (Entered: 07/28/2004)
08/03/2004	<u>25</u>	Opposition re <u>23</u> MOTION to Dismiss filed by Gaetano P. DeLuca. (Folan, Karen) (Entered: 08/09/2004)
08/03/2004	<u>26</u>	MEMORANDUM by Gaetano P. DeLuca in support of <u>25</u> Opposition to Motion to dismiss. (Folan, Karen) (Entered: 08/09/2004)
08/03/2004	<u>27</u>	EXHIBITs re <u>25</u> Opposition to Motion to dismiss by Gaetano P. DeLuca. (Folan, Karen) (Entered: 08/09/2004)
08/12/2004	<u>28</u>	MOTION to Stay discovery by Raymond E. Beale Jr., Ruth Anne Beck, Peter B. Bickford, Bruce T. Capman, Hingham Board of Health, The Town of Hingham. (Folan, Karen) (Entered: 08/18/2004)
08/17/2004	<u>29</u>	Opposition re <u>28</u> MOTION to Stay discovery filed by Gaetano P. DeLuca. (Folan, Karen) (Entered: 08/19/2004)
08/17/2004	<u>30</u>	AFFIDAVIT re <u>29</u> Opposition to Motion to stay discovery by Gaetano P. DeLuca. (Folan, Karen)

		(Entered: 08/23/2004)
08/17/2004	●31	EXHIBITs re <u>29</u> Opposition to Motion to stay discovery by Gaetano P. DeLuca. (Unable to scan) (Folan, Karen) (Entered: 08/23/2004)
08/18/2004	●32	Letter from Gaetano Deluca with attached amended copy of page 8 of his opposition to motion to stay. (Folan, Karen) (Entered: 08/23/2004)
09/01/2004	●33	JOINT STATEMENT of counsel. (Folan, Karen) (Entered: 09/08/2004)
09/01/2004	●34	CERTIFICATION pursuant to Local Rule 16.1 by Gaetano P. DeLuca.(Folan, Karen) (Entered: 09/08/2004)
09/02/2004	●35	JOINT STATEMENT re scheduling conference. (Folan, Karen) (Entered: 09/08/2004)
09/02/2004	●36	CERTIFICATION pursuant to Local Rule 16.1 by Bruce T. Capman, The Town of Hingham.(Folan, Karen) (Entered: 09/08/2004)
09/02/2004	●37	CERTIFICATION pursuant to Local Rule 16.1 by Peter B. Bickford, The Town of Hingham.(Folan, Karen) (Entered: 09/08/2004)
09/02/2004	●38	CERTIFICATION pursuant to Local Rule 16.1 by Charles Christello.(Folan, Karen) (Entered: 09/08/2004)
09/08/2004	●	Electronic Clerk's Notes for proceedings held before Judge Robert E. Keeton : Scheduling Conference held on 9/8/2004. (Court Reporter Marzilli.)Colloquy RE: discovery scheduling. Colloquy RE: motion to dismiss. Defendant allowed until 9/29/2004 to amend motion to dismiss. Plaintiff allowed until 10/13/2004 to respond to amended motion to dismiss. Hearing and oral argument for motion to dismiss set for 2:00 pm on 10/27/2004. Both parties agreed to stay discovery and automatic disclosures until after the hearing. (REK,

		law3) (Entered: 09/08/2004)
09/08/2004	<u>39</u>	CERTIFICATION pursuant to Local Rule 16.1 by Ruth Anne Beck.(Folan, Karen) (Entered: 09/27/2004)
09/08/2004	<u>40</u>	CERTIFICATION pursuant to Local Rule 16.1 by Raymond E. Beale Jr..(Folan, Karen) (Entered: 09/27/2004)
09/29/2004	<u>41</u>	SUPPLEMENTAL MOTION to Dismiss by Raymond E. Beale Jr., Ruth Anne Beck, Peter B. Bickford, Bruce T. Capman, Hingham Board of Health, The Town of Hingham.(Folan, Karen) (Entered: 10/04/2004)
09/29/2004	<u>42</u>	SUPPLEMENTAL MEMORANDUM of Law in Support re <u>41</u> MOTION to Dismiss filed by Raymond E. Beale Jr., Ruth Anne Beck, Peter B. Bickford, Bruce T. Capman, Hingham Board of Health, The Town of Hingham. (Folan, Karen) (Entered: 10/04/2004)
10/01/2004	<u>43</u>	MOTION to Strike /deny defendants' motion to dismiss and any amended motion to dismiss by Gaetano P. DeLuca.(Folan, Karen) (Entered: 10/06/2004)
10/05/2004	<u>49</u>	Opposition re <u>43</u> MOTION to Strike/Deny motion to dismiss filed by Raymond E. Beale Jr., Ruth Anne Beck, Peter B. Bickford, Bruce T. Capman, Hingham Board of Health, The Town of Hingham. (Folan, Karen) (Entered: 10/12/2004)
10/12/2004	<u>44</u>	EXHIBITS to Plaintiffs' opposition to defendants' motion to dismiss (Volume 1) by Gaetano P. DeLuca. (Unable to scan) (Folan, Karen) (Entered: 10/12/2004)
10/12/2004	<u>45</u>	EXHIBITS to Plaintiff's Opposition to Defendants' motion to dismiss by Gaetano P. DeLuca (Volume 2). (Unable to scan) (Folan, Karen) (Entered: 10/12/2004)
10/12/2004	<u>46</u>	EXHIBITS to plaintiff's opposition to defendants'

		motion to dismiss by Gaetano P. DeLuca (Volume 3). (Unable to scan) (Folan, Karen) (Entered: 10/12/2004)
10/12/2004	●47	EXHIBITS to plaintiff's opposition to defendants' motion to dismiss by Gaetano P. DeLuca (Volume 4). (Unable to scan) (Folan, Karen) (Entered: 10/12/2004)
10/12/2004	●48	EXHIBITS to plaintiff's opposition to defendants' motion to dismiss by Gaetano P. DeLuca (Volume 5). (Unable to Scan) (Folan, Karen) (Entered: 10/12/2004)
10/12/2004	●50 (Copy)	AMENDED Opposition re 41 MOTION to Dismiss filed by Gaetano P. DeLuca. (Folan, Karen) (Entered: 10/27/2004)
10/12/2004	●51 (Copy)	MOTION for Leave of court to enlarge size of his memorandum in opposition by Gaetano P. DeLuca. (Folan, Karen) (Entered: 10/27/2004)
10/12/2004	●52 (Copy)	MEMORANDUM in support of Opposition re 41 MOTION to Dismiss filed by Gaetano P. DeLuca. (Attachments: # 1 Part 2)(Folan, Karen) (Entered: 10/27/2004)
10/27/2004	●	Electronic Clerk's Notes for proceedings held before Judge Robert E. Keeton : Hearing held on 10/27/2004, Motions terminated: 28 MOTION to Stay filed by Raymond E. Beale, The Town of Hingham, Hingham Board of Health, Peter B. Bickford, Ruth Anne Beck, Bruce T. Capman, 43 MOTION to Strike filed by Gaetano P. DeLuca, 51 MOTION for Leave to File filed by Gaetano P. DeLuca. Colloquy RE: 42 Motion to Strike. REK denies motion, noted on margin. Colloquy RE: 28 Motion to Stay Discovery. Defendant speaks. REK denies motion, will hear defendant further after ruling on Motion to Dismiss. Colloquy RE: 51 Motion for Leave to File. REK allows motion. Colloquy RE: 23 Defendant's Motion to Dismiss. Defendant speaks. Plaintiff speaks. REK takes issue under advisement. Defendant raises

		issue of staying discovery. REK denies a stay of discovery. REK will leave it to parties to resolve after memorandum and order is issued regarding <u>23</u> motion to dismiss.(Court Reporter Marzilli.) (Caffrey) (Entered: 10/27/2004)
11/02/2004	<u>53</u>	Judge Robert E. Keeton : MEMORANDUM AND ORDER entered granting <u>23</u> Motion to Dismiss. (Folan, Karen) (Entered: 11/03/2004)
11/02/2004	<u>54</u>	Judge Robert E. Keeton : JUDGMENT entered. "For the reasons stated in the Memorandum and Order of this date, it is ORDERED: Civil Action No. 03-12592 is CLOSED."(Folan, Karen) (Entered: 11/03/2004)
11/02/2004	<u>55</u>	Letter(non-motion) from Gaetano DeLuca to Attys. Bloom and Breen re: request to stay discovery. (Folan, Karen) (Entered: 11/08/2004)
11/02/2004		Civil Case Terminated. (Folan, Karen) (Entered: 11/23/2004)
11/08/2004	<u>56</u>	MOTION to Compel by Gaetano P. DeLuca.(Folan, Karen) (Entered: 11/23/2004)
11/10/2004	<u>57</u>	MOTION for Reconsideration re <u>54</u> Judgment by Gaetano P. DeLuca.(Folan, Karen) (Entered: 11/23/2004)
11/16/2004	<u>58</u>	MEMORANDUM OF LAW by Raymond E. Beale Jr., Ruth Anne Beck, Peter B. Bickford, Bruce T. Capman, Hingham Board of Health, The Town of Hingham in opposition to <u>57</u> MOTION for Reconsideration re <u>54</u> Judgment. (Folan, Karen) (Entered: 12/07/2004)
01/12/2005	<u>59</u>	Judge Robert E. Keeton : MEMORANDUM AND ORDER entered denying <u>57</u> Motion for Reconsideration. (Folan, Karen) (Entered: 01/12/2005)
02/07/2005	<u>60</u>	NOTICE OF APPEAL as to <u>59</u> Order on Motion for Reconsideration by Gaetano P. DeLuca. NOTICE TO

		<p>COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerk/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 2/28/2005. (Folan, Karen) (Entered: 02/08/2005)</p>
--	--	---